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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,438	01/30/2004	Hidetoshi Tanaka	TSUT 0027	7227
7590	11/16/2005		EXAMINER [REDACTED]	GONZALEZ, JULIO C
Stanley P. Fisher Reed Smith LLP Suite 1400 3110 Fairview Park Drive Falls Church, VA 22042-4503			ART UNIT [REDACTED]	PAPER NUMBER 2834

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/767,438	TANAKA ET AL. <i>(JPN)</i>
	Examiner	Art Unit
	Julio C. Gonzalez	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 26 October 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-5 is/are allowed.
- 6) Claim(s) 6-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 12, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Hartemann et al (US 4,515,016) in view of Tavkhelidze et al (US 6,720704).

Hartemann et al discloses a vibrator having a first and second electrode, a vibrator (see figure 5), a base 1, a pedestal 2, a mass 27 and two plates (see figure 5), which support and sandwich mass 27.

However, Hartemann et al does not disclose explicitly having an electrode terminal connected to each electrode.

On the other hand, Tavkhelidze et al discloses for the purpose of effectively spacing electrodes at close proximity, electrodes 1,5, electrode terminal 27 connected to electrodes 1, 5, which performs an input/output of charges (see figure 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design a vibrator as disclosed by Hartemann et al and to use the teachings of Tavkhelidze et al of having a terminal for the electrodes providing an input/output of charges for the purpose of effectively spacing electrodes at close proximity.

3. Claims 7, 8, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartemann et al and Tavkhelidze et al as applied to claims 6 and 12 above, and further in view of Kasahara et al (US 2001/0028203).

The combined vibrator discloses all of the elements above. However, the combined vibrator does not disclose that the base has contact prevention devices.

On the other hand, Kasahara et al discloses for the purpose of preventing short circuits between electrodes, stoppers 10 for preventing contact between electrodes 22A and 30A (see figures 13A, 18A).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined vibrator as disclosed above and to use stoppers for the purpose of preventing short circuits between electrodes as disclosed by Kasahara et al.

4. Claims 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartemann et al and Tavkhelidze et al as applied to claim 6 above, and further in view of ordinary skill in the art.

The combined vibrator discloses all of the elements above. However, the combined vibrator does not disclose using two or more supports for the mass.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the above vibrator by duplicating the support plates, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

5. Applicant's arguments filed 10/26/05 have been fully considered but they are not persuasive.

Hartemann et al discloses having a vibrator provided with a first and second electrode (column 3, line 68 – column 4, line 5; see figures 1, 2) and an oscillation plates sandwiching mass 27 (see figure 5).

Also, Tavkhelidze et al discloses using a vibrator 20 with electrodes 1, 5 (see figure 1), which constitute a capacitance (column 8, line 65-column 9, line 6).

With respect to the stopper of the present application, it is disclosed in the claims that such a base is provided with contact prevention device for preventing contact between a first and second electrode. Respectfully, Kasahara et al discloses what is being claimed. Kasahara et al shows that it is known to use contact prevention device 10 to avoid contact between electrodes between a moving member and a fixed member (see figures 2, 11, 13A, 15B, 18A).

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., power generation is performed by undergoing a change in capacitance; the large change in capacitance can be obtained from the vibrator oscillating parallel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Allowable Subject Matter

8. Claims 1, 2, 3, 4 and 5 are allowed.

Conclusion

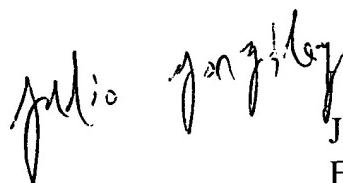
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is 571-272-2024. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julio C. Gonzalez
Examiner
Art Unit 2834

Jcg

November 10, 2005